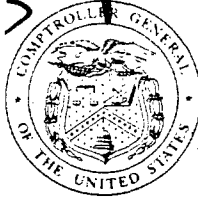


9953 *revised* 109174

Proc II
GAP 00046

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-193530

DATE: April 27, 1979

MATTER OF: Alan Scott Industries - DLG 00085

DIGEST:

1. Protester alleging specifications are unduly restrictive of competition bears burden of proof and must show that specifications and agency's determination of its minimum needs are clearly unreasonable. As protester has not met this burden, protest is denied.
2. Where agency has clearly stated its requirements and informed offerors where to obtain specifications and drawings, it is not required to furnish such specifications and drawings with the solicitation.

Alan Scott Industries (Scott) protests award of any contract under request for proposals (RFP) No. DLA120-79-R-0262, issued by the Defense Logistics Agency (DLA). The solicitation invited proposals for supplying brass metal ear syringes conforming to interim Federal Specification GG-S-00928C, dated February 16, 1971. For the reasons discussed below, this protest is denied. AGC 00378

Scott alleges that the specifications and testing requirement for this procurement are excessively restrictive and result in sole source procurements. Scott further states that the failure of the agency to furnish "proper drawing[s]" and specifications with the solicitation prevented preparation of "pre-award samples." While the agency concedes there is only one known domestic supplier for the required item, it denies that the specifications and testing requirements are unduly restrictive of competition. The agency points out that although the solicitation did not require the submission of samples, Scott did submit a sample of its product which testing revealed did not conform to the specifications.

*But specifications
with drawings*

[Protest ALLEGING Solicitation Requirements
RESTRICTED Competition] 005113

The procurement statutes require that every reasonable effort be made to draft specifications which will permit the broadest field of competition consistent with the Government's needs. However, if the specifications are reasonable and necessary for the purpose intended, the fact that only one firm can meet the specifications does not violate competitive bidding requirements. ⁴⁵ Comp. Gen. 365 (1965). Generally, when a specification has been challenged as unduly restrictive of competition, it is incumbent upon the procuring agency to establish prima facie support for its contention that the restrictions it imposes are reasonably related to its needs but the burden of proof remains on the protester to show that the requirements complained of are clearly unreasonable. Constantine N. Polites & Co., B-189214, December 27, 1978, 78-2 CPD 437.

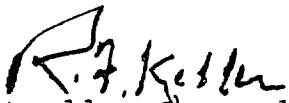
The agency has not attempted to establish that the applicable specification reasonably reflects its needs and contends that Scott's allegations are so vague and general as to preclude a meaningful response. It points out, however, that in 1978, a number of medical and dental instrument suppliers, including Scott, were furnished copies of a proposed revision to the specification for review and comment. In addition, although the sample provided by Scott was rejected for this procurement, it has been submitted to the Defense Medical Material Board for evaluation as to its suitability for future procurement.

Although Scott contends that commercially available syringes could be purchased at lower prices, it has not identified those portions of the specifications for this item which it considers to be unduly restrictive. It clearly objects to the testing requirements for this item but has not indicated in what respects they may be excessive to the needs of the agency. Aside from general allegations, Scott has not presented any support for its contentions. Thus, on the basis of the record before us, we must conclude that the protester has not met its burden of showing that the specifications and testing requirements are clearly unreasonable.

Scott's protest with regard to the agency's failure to provide drawings and specifications is also without merit. The solicitation stated the requirements unambiguously and specifically notified all offerors where and how the drawings and specifications could be obtained. Under these conditions, there is no legal requirement that drawings and specifications be furnished as part of the solicitation package. See Constantine N. Polites & Co., supra.

Along with this protest, Scott submitted a great deal of correspondence and material relating to specifications and test requirements for other medical and dental instruments. As the agency points out, these relate to a specification for steel instruments. The ear syringe is a brass item to which these tests and specifications do not apply. Although the material is not relevant to this protest, it has been turned over to our audit division for consideration in connection with its procurement review functions.

The protest is denied.


Deputy Comptroller General
of the United States